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DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: March 26, 2025

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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STEVEN LESANE,

Movant,

v.

18-CR-527-5 (KMW)

24-CV-6989 (KMW)

UNITED STATES OF AMERICA,

Respondent.

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**ORDER DIRECTING DAVID B. ANDERS AND MICHAEL J. GILBERT  
TO FILE AFFIDAVITS & ORDER TO ANSWER**

KIMBA M. WOOD, United States District Judge:

On March 24, 2025, Steven Lesane moved to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255, on the ground that his former attorneys, David B. Anders and Michael J. Gilbert, provided ineffective assistance of counsel. (Pet'r's Mot., ECF No. 304.) The Court finds that both Mr. Anders's and Mr. Gilbert's testimony is required for the Court to evaluate the motion.

By making his Section 2255 motion, Mr. Lesane has waived his attorney-client privilege as a matter of law. The Court is cognizant that, absent court order or informed consent, ethical concerns may inhibit Mr. Anders and Mr. Gilbert from disclosing confidential information relating to a prior client even in the absence of a privilege. *See, e.g.*, ABA Standing Comm. on Ethics & Pro. Resp., Formal Op. 10-456 (2010).

**Mr. Lesane is ordered to execute and return to the Court by May 12, 2025 the enclosed "Attorney-Client Privilege Waiver (Informed Consent)" form ("Waiver"). If the Waiver is not received by May 12, 2025, the Court will deny Mr. Lesane's Section 2255**

**motion, on the ground that Mr. Lesane failed to authorize the disclosure of information needed to permit the Court to evaluate his motion.**

Within five days of receiving Mr. Lesane's signed Waiver, the Government shall serve that Waiver on Mr. Anders and Mr. Gilbert. Within 21 days of receiving that Waiver, Mr. Anders and Mr. Gilbert shall each file an affidavit addressing Mr. Lesane's allegations of ineffective assistance of counsel. Within 21 days of receiving both affidavits, the Government shall file an answer or other pleading in response to Mr. Lesane's Section 2255 motion. Mr. Lesane will then have 45 days from the date on which he is served with the Government's answer or other pleading to file a response.

All further papers filed or submitted for filing must include the criminal docket number and will be docketed in the criminal case. The Clerk of Court is respectfully directed to mail a copy of this Order and the accompanying Waiver to Mr. Lesane.

SO ORDERED.

Dated: New York, New York  
March 26, 2025

/s/ Kimba M. Wood  
KIMBA M. WOOD  
United States District Judge

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X

STEVEN LESANE,

Movant,

18-CR-527-5 (KMW)

v.

24-CV-6989 (KMW)

UNITED STATES OF AMERICA,

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**Attorney-Client Privilege Waiver (Informed Consent)**

To: Steven Lesane

You have made a motion under Section 2255 of Title 28, United States Code, to have your sentence set aside on the ground that you received ineffective assistance from your former lawyers, David B. Anders and Michael J. Gilbert (referred to in this form as “your former attorneys”). The Court has reviewed your papers and determined that it needs to have a sworn testimonial statement from your former attorneys in order to evaluate your motion.

By making this motion, you have waived the attorney-client privilege you had with your former attorneys to the extent relevant to determining your claim. This means that if you wish to press your claim of ineffective assistance, you cannot keep the communications between yourself and your former attorneys a secret—you must allow them to be disclosed to the Government and to the Court pursuant to court order. The Court has already issued an Order (copy attached) ordering your former attorneys to give such testimony, in the form of an affidavit. This Informed Consent form is designed to ensure that you fully understand and agree to this.

Specifically, if you wish to proceed with your motion to set aside your conviction on the basis that you received ineffective assistance of counsel, you must sign this statement and return it to the Court (keeping a copy for your records). The form constitutes your authorization to your former attorneys to disclose confidential communications (1) only in response to a court order and (2) only to the extent necessary to shed light on the allegations of ineffective assistance of counsel that are raised by your motion.

You should know that if you sign this authorization, you run the risk that your former attorneys will contradict your statements about their representation of you. However, you should also know that the Court will deny your motion if you do not authorize your former attorneys to give an affidavit in response to the Court’s attached Order.

You must return this form, signed by you and notarized, by May 12, 2025, directing your former attorneys to give testimony. If the Court does not receive this form, signed by you and notarized, by that date, the Court will automatically deny your motion.

#### NOTARIZED AUTHORIZATION

*United States v. Steven Lesane*, 18 Cr. 527 (KMW)

I have read the Court's Order dated March 26, 2025 and this document headed Attorney-Client Privilege Waiver (Informed Consent). I hereby authorize my former attorneys, David B. Anders and Michael J. Gilbert, to comply with the Court's Order by giving testimony, in the form ordered by the Court, relating to my motion to set aside my sentence on the ground of ineffective assistance of counsel. This authorization allows my former attorneys to testify only pursuant to court order, and only to the extent necessary to shed light on the allegations of ineffective assistance of counsel that are raised by my motion.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_  
Steven Lesane

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public